

Application No. 10/608,224
Reply to the Office action of September 28, 2004

REMARKS/ARGUMENTS

The specification has been amended to include a first paragraph making reference to the parent application from which the present continuation stems.

Claims 35 to 49 remain in the application. Claim 50 has been cancelled without prejudice.

Claim 50 was rejected under 35 U.S.C. 102(b) as being allegedly anticipated by Bertin et al (U.S. 2,949,734). In view of the present cancellation of claim 50, this rejection is now believed to be moot.

Claims 41 to 43 and 47 to 49 were rejected under 35 U.S.C. 103(a) as being unpatentable over Bertin et al in view of Griffin et al (U.S. 4,773,212). Particularly, the Examiner alleges that it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide "the third duct of Bertin et al with a pressurized duct as taught by 84 with a cooler of Griffin et al" as this would allegedly improve efficiency. With respect, the Applicant believes that no motivation to combine the teachings of Bertin et al with those of Griffin et al exists and, nevertheless, the combination of these two references fails to teach or suggest the subject matter of claims 41 to 49 of the present application.

Bertin et al generally describe a jet deflector or thrust spoiler mounted downstream of a jet turbine engine exhaust nozzle.

Griffin et al, on the other hand, teach heat transfer systems for a gas turbine engine. The Examiner has not explained why the skilled reader, looking to improve Bertin et al.'s jet deflector, would refer to references directed to air-fluid heat rejection systems. The combination, with respect, is not a realistic one. Beutin et al. includes no fluid cooling system amenable to combination with Griffen et al.

In any event, even if this combination was made, it would not result in the claimed invention. Griffen et al. teaches a cooling air duct 84 extending to a fourth heat exchanger 82, whereafter the cooling air is then discharged into a nacelle compartment, such as the nacelle fan compartment 14 or the nacelle core compartment 16 (column 4, lines 56 to 64). Therefore, Griffen et al merely teach the use of a heat exchanger which ingests cooling air and subsequently discharges it into an engine nacelle compartment. A combination of Griffen et al. and Bertin et al would result in a fluid-air heat exchanger in which the heat exchange outlet air is dumped into a nacelle compartment. With respect, this is not what is claimed in the subject claims.

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Accordingly, nothing disclosed by Bertin et al or Griffin et al suggests the need or desire to combine their teaching, and if combined, would nevertheless fail to teach the subject matter of independent claims 41 and 42 of the present application.

Reconsideration of the rejection of claims 41 to 43 and 47 to 49 under 35 U.S.C. 103(a) is therefore respectfully anticipated.

Claims 44 to 46 were also rejected under 35 U.S.C. 103(a) as being unpatentable over Bertin et al in view of Griffin et al and further having regard to Ballard (GB 2 044 359). As noted above, the Applicant believes that independent claim 42 is clearly not obvious in view of Bertin et al and Griffin et al, and therefore dependent claims 44 to 46 are not believed to be obvious regardless of the teachings of Ballard, at least in view of their dependence on independent claim 42.

Regardless, Ballard teaches gas turbine engine air intakes particularly having a vortex tube separator panel 21 for the purpose of separating water droplets and particulate material from air entering the gas turbine engine 12. While exhaust efflux nozzle 32 of the gas turbine engine 12 is provided around its downstream end with an array of scallops 33 provided to promote effective mixing of exhaust gases and cooling air, adding the exhaust nozzle scallops 33 taught by Ballard to the exhaust nozzle assembly disclosed by Bertin et al, would be impractical in view of the downstream deflecting device 6 which includes the plurality of pivoting blades 4 used to redirect exhaust gas flow - i.e. Ballard would decrease thrust, and thus decrease the effectiveness of Beutin et al.

See MPEP 2143.01 - if a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make to proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984) [emphasis added]

The Applicant therefore believes, in view of the above and at least in view of their dependence on independent claim 42, that dependent claims 44 to 46 are not obvious over Bertin et al in view of Griffin et al. and further in view of Ballard. Reconsideration is therefore respectfully requested.

The Applicant notes that claims 35 to 40 were allowed.

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The Applicant believes that all points raised by the Examiner have been diligently addressed and therefore respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



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Date

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